

July 16, 1998

(12)

No. 97-1396

In the
Supreme Court of the United States
October Term, 1998

VICKY M. LOPEZ, et al.,
Appellants,

v.

MONTEREY COUNTY, CALIFORNIA,
STATE OF CALIFORNIA
Appellees,

and

WENDY DUFFY,
Intervenor-Appellee.

On Appeal from the United States District Court
for the Northern District of California

**NOTICE FOR LEAVE TO FILE BRIEF AMICUS
CURIAE OF PACIFIC LEGAL FOUNDATION IN
SUPPORT OF APPELLEE, STATE OF CALIFORNIA**

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Pursuant to Supreme Court Rule 37, Pacific Legal Foundation (PLF) respectfully moves this Court for leave to file a brief amicus curiae in support of appellee, the State of California. The brief itself was filed with this Court on July 16, 1998, and erroneously indicated that all parties had granted consent. In fact, consent to the filing of this brief has been granted by counsel for appellants Lopez, *et al.*, for the State of California, and for intervenor Wendy Duffy. Those letters of consent have been lodged with the Clerk of this Court. Counsel for appellant County of Monterey has failed to respond to repeated requests for consent, thus necessitating the filing of this motion.

IDENTITY AND INTEREST OF AMICUS CURIAE

Pacific Legal Foundation is a nonprofit, tax-exempt corporation organized under the laws of the State of California for the purpose of engaging in litigation in matters affecting the public interest. PLF has adopted policies promoting the integrity of the electoral process. To that end, Pacific Legal Foundation is submitting this brief to provide an additional viewpoint with respect to the issues presented. PLF attorneys filed a brief in the earlier incarnation of this lawsuit, *Lopez v. Monterey County, California*, 519 U.S. 9, 117 S. Ct. 340 (1996), and participated in numerous other cases in the voting rights context before this Court including *Bush v. Vera*, 517 U.S. 952, 116 S. Ct. 1941 (1996); *Shaw v. Hunt*, 577 U.S. 899, 116 S. Ct. 1894 (1996); *United States v. Hays*, 515 U.S. 900 (1995); *Miller v. Johnson*, 515 U.S. 900 (1995); *Chisom v. Roemer*, 501 U.S. 380 (1991); and *Houston Lawyers' Association v. Attorney General of Texas*, 501 U.S. 419 (1991).

PLF believes that the significance of this case reaches beyond its limited facts because it addresses a fundamental question of law that goes to the heart of how the Constitution allocates power between the federal government

and the states. Amicus seeks to augment the arguments in the parties' briefs regarding the proper understanding of the federalist system established by the Constitution. PLF believes that the extraordinarily intrusive provisions of the Voting Rights Act must be construed narrowly to avoid unnecessarily treading on state sovereignty. In this case, the State of California has never been accused of engaging in discriminatory voting practices, covert or otherwise. Therefore, the federal government must not impose on California the intrusive penalties of the Act enacted to prevent further discrimination by those jurisdictions that *have* infringed upon citizens' right to vote. PLF believes that its public policy perspective and litigation experience dealing with federalism and the Constitution's enumeration of powers will provide this Court with a broader policy viewpoint than that presented by the parties and believes that its broader viewpoint will aid this Court in the resolution of this case.

For the foregoing reasons, Pacific Legal Foundation requests that its motion to file the amicus curiae brief which follows be granted.

DATED: July, 1998.

Respectfully submitted,

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